



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF DPI)
TELECONNECT, L.L.C. FOR AUTHORIZATION TO)
PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES THROUGHOUT)
THE STATE OF NEW JERSEY)

ORDER

DOCKET NO. TE03070555

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated July 23, 2003, dPi TeleConnect, L.L.C. ("Petitioner" or "dPi TeleConnect") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide competitive, resold or facilities-based local exchange and interexchange telecommunications services throughout the State of New Jersey. Pursuant to the Open Public Records Act N.J.S.A. 47:1A-1 et seq., Petitioner has submitted its financial information under seal and has included a sworn affidavit with substantiation for confidential treatment in order to limit the availability of proprietary information.

dPi TeleConnect is a limited liability company organized under the laws of the State of Delaware. dPi TeleConnect is 70% owned by Rent-Way, Inc., a publicly traded company listed on the New York Stock Exchange as "RWY", and 30% owned by DPI Holdings, Inc., a privately held company incorporated in the State of Texas. Petitioner's principal offices are located at 2997 LBJ Freeway, Suite 225, Dallas, Texas 75234.

Petitioner has submitted copies of its Certification of Incorporation from the State of Delaware and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, dPi TeleConnect was formed to provide resold or facilities-based local exchange and interexchange telecommunications services throughout New Jersey. Petitioner states that as of December 31, 2002, it provides retail telecommunications service to more than 1,400 residential and commercial customers in New Jersey. dPi TeleConnect provides these services through its Resale Agreement with Verizon-New Jersey, Inc. ("Verizon"), which received the Board's approval on July 7, 1999 in Docket No. TM99020665. Petitioner further states that as of December 31, 2002, it provides nationwide resold or facilities-based telecommunications services to more than 50,000 residential and commercial customers. According to the petitioner, it has received the necessary licenses, permits or authorizations to provide resold or facilities-

based telecommunications services in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Nevada, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas and Virginia. The Petitioner states that it has not been denied authority to provide telecommunications services in any jurisdiction, its authority has not been revoked in any state, nor has it ever been the subject of any civil or criminal proceeding.

In its Petition, the Company seeks authority to provide competitive, resold or facilities-based local exchange and interexchange telecommunications services, both Intra Local Access and Transport Area and Inter Local Access and Transport Area to residential and commercial customers throughout the State of New Jersey. Petitioner currently provides retail telecommunications services, including but not limited to local dial tone and long distance services, primarily to residential and commercial customers on pre-paid or pay-as-you-go basis. In addition, through the resale agreement, its customers receive 911 and operator-assisted services, as well as directory assistance and telephone directory publication. Petitioner indicates that it intends to pursue an interconnection agreement with Verizon in order to provide services through the purchase of Unbundled Network Elements ("UNE") or UNE platforms, and, where technically and economically feasible, deployment of its own facilities. Petitioner states that it will file a tariff for Board approval. The Petitioner states that it maintains a toll-free number for its customer service inquiries.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3 which require that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in Dallas, Texas. Petitioner also states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, dPi TeleConnect states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel who, according to dPi TeleConnect, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et. seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed dPi TeleConnect's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout New Jersey subject to approval of its tariff. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and Division of Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is approved by the Board.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N.J.S.A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N.J.S.A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form is due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board

books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 9/25/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)
KRISTI IZZO
SECRETARY

IN THE MATTER OF THE PETITION OF DPI TELECONNECT, L.L.C.
AUTHORIZATION TO PROVIDE LOCAL EXCHANGE AND
INTEREXCHANGE TELECOMMUNICATIONS SERVICES
THROUGHOUT THE STATE OF NEW JERSEY

DOCKET NO. TE03070555

SERVICE LIST

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